

THE HONORABLE THOMAS S. ZILLY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

HUNTERS CAPITAL, LLC, a Washington limited liability company, SRJ ENTERPRISES, d/b/a CAR TENDER, a Washington corporation, THE RICHMARK COMPANY d/b/a RICHMARK LABEL, a Washington company, ONYX HOMEOWNERS ASSOCIATION, a Washington registered homeowners association, WADE BILLER, an individual, MADRONA REAL ESTATE SERVICES LLC, a Washington limited liability company, MADRONA REAL ESTATE INVESTORS IV LLC, a Washington limited liability company, MADRONA REAL ESTATE INVESTORS VI LLC, a Washington limited liability company, 12TH AND PIKE ASSOCIATES LLC, a Washington limited liability company, REDSIDE PARTNERS LLC, a Washington limited liability company, OLIVE ST APARTMENTS LLC, a Washington limited liability corporation, BERGMAN'S LOCK AND KEY SERVICES LLC, a Washington limited liability company, MATTHEW PLOSZAJ, an individual, SWAY AND CAKE LLC, a Washington limited liability company, SHUFFLE LLC d/b/a Cure Cocktail, a Washington limited liability company, on behalf of themselves and others similarly situated,

Plaintiffs,

vs.

Case No. 2:20-cv-00983 TSZ

DECLARATION OF PETER PAK IN
SUPPORT OF REPLY REGARDING
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION

Noted: February 18, 2022

1 CITY OF SEATTLE,
2 Defendant.

3
4 I, Peter Pak, declare as follows:
5

6 1. I am over eighteen years of age and am competent to testify herein. I make the
7 following statements based on my personal knowledge.

8 2. I am the owner of Oma Bap, a Korean fast-casual restaurant located at 1640 11th
9 Street, across the street from Cal Anderson Park, at the intersection of 11th Avenue and Olive
10 Street. Oma Bap was located at this address during all of 2020.

11 3. My business suffered greatly from the impacts of the Capitol Hill Occupied
12 Protest, or CHOP, that occupied the area in June 2020, as well as the ongoing impacts of CHOP
13 that continued throughout the rest of 2020. This included not only lost revenues but also broken
14 windows and other physical damage.

15 4. Until now, I have been reluctant to make these damages known publicly, because
16 I have been afraid that my business would be targeted for reprisals by people who were involved
17 in CHOP, even though I have been a strong supporter of Black Lives Matter and racial equity. I
18 know from personal experience and observations that people and businesses who appeared to
19 insufficiently supportive of CHOP were labeled as unsupportive and became targets for
20 retaliation such as vandalism and boycotts.

21 5. I have decided to come forward now because I understand the City has argued to
22 this Court that (1) business owners like me who support Black Lives Matter and racial equity
23 either were not harmed by CHOP or do not agree with holding the City responsible for CHOP,
24 and (2) that business owners like me who filed tort claims with the City are not supportive of
25 this lawsuit, or perhaps have resolved their claims. Neither of these claims is true.

1 6. I support Black Lives Matter and I was a supporter in June 2020. I hosted a
2 fundraiser for Black Lives Matter at Oma Bap in June 2020 and took other steps to support the
3 goals of Black Lives Matter during that same time period. However, me and my business were
4 also harmed by CHOP, and I am very upset that the City allowed and encouraged CHOP to cause
5 so much harm to Oma Bap and the rest of the neighborhood. I am also supportive of this lawsuit.
6 These feelings about the City and this lawsuit are not inconsistent with my support for the need
7 for racial equity in government and policing.

8 7. I filed a tort claim with the City for Oma Bap on September 28, 2020, at the urging
9 of City officials who assured me I would be fully reimbursed. A copy of that claim is attached
10 to this declaration as Exhibit A. This was a conservative claim for lost revenue and damages
11 such as broken windows that occurred during CHOP and during the months following. I included
12 a full timeline and photographic evidence. I sought \$76,616 in damages, which was a
13 conservative estimate of my damages to that point.

14 8. On December 14, 2020, the City offered to pay me \$500 if I waived all of my
15 claims. A copy of that letter is attached to this declaration as Exhibit B. I was offended by this
16 offer and did not accept it.

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2 9. I remain of the opinion that the City is responsible for the harm suffered by
3 business and to other businesses, property owners, and residents in our neighborhood. I am fully
4 supportive of both Black Lives Matter *and* the people who have brought this lawsuit, and I urge
5 the Court to certify a class that would include businesses like Oma Bap so that .
6

7 I declare under the penalty of perjury under the laws of the State of Washington that the
8 foregoing is true and correct.
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10 DATED this 16th day of February, 2022 at Seattle, Washington.
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13 Peter Pak
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Exhibit A

Note:
Type or Print Legibly.
See instructions on back.



City of Seattle CLAIM FOR DAMAGES

CITY USE ONLY

CLAIM NUMBER 99368

DATE FILED 9/28/20

CLAIMANT	NAME (FIRST - MIDDLE - LAST, OR BUSINESS NAME) Peter OMA BAP	DATE OF BIRTH	HOME PHONE
CURRENT HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP) 1640 11th AVE SEATTLE, WA 98122		BUS. PHONE 206 425 7530	
HOME ADDRESS AT THE TIME THE CLAIM AROSE (NUMBER - STREET - CITY - STATE - ZIP) 1640 11th AVE SEATTLE, WA 98122		CELL PHONE 703 864-8951	E-MAIL ADDRESS OMABAP7@GMAIL.COM
ACCIDENT/LOSS	DATE JUNE 1, 2020 - CURRENT	DIAGRAM Use if this will help you locate or describe what happened	
LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc. 1640 11th AVE	ANITA OUTREACH	
WHAT HAPPENED?	DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. (additional space on reverse side or attach additional pages and supportive documents as needed)		
WE HAVE LOST SIGNIFICANT BUSINESS REVENUE DUE TO THE UNSAFE NEIGHBORHOOD THE CITY HAS FAILED TO UP HOLD			
NAMES, ADDRESSES, AND PHONE NUMBERS OF ALL PERSONS INVOLVED IN OR WITNESS TO THIS INCIDENT		CITY DEPT?	
1) KUI KAPU 2) DANIEL SANCHEZ 3) CORINNE TAYLOR		CITY EMPLOYEE	
Ph: 425 830 7558 Ph: 206 605 6845 Ph: 425 244 8122		CITY VEHICLE NUMBER, LICENSE, etc.	
WAS YOUR PROPERTY DAMAGED? (I.e. Home, Auto, Personal Property)			
<input checked="" type="checkbox"/> YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE, MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE			
<input type="checkbox"/> NO (additional space on reverse side or attach additional pages and supportive documents as needed)			
(4) WINDOWS BROKEN			
WERE YOU INJURED? <input type="checkbox"/> YES IF YES, THEN COMPLETE THE FOLLOWING:			
<input checked="" type="checkbox"/> NO (additional space on reverse side or attach additional pages and supportive documents as needed)			
DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S))			
WAGE LOSS <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, THEN RATE OF PAY: _____			
KIND OF WORK _____ EMPLOYER _____			
AMOUNT CLAIMED (if known) \$ 76,616			
SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS)		I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct	
<p>This claim form must be signed by the Claimant, verifying the claim; or pursuant to a written power of attorney, by the attorney in fact for the claimant; or by an attorney admitted to practice in Washington State on the claimant's behalf; or by a court-approved guardian or guardian ad litem on behalf of the claimant.</p>		EXECUTED this 22 day of SEPTEMBER 2020,	
		At SEATTLE KING County, Washington	
X			

PETER PAK

20 SEP 28 AM 9:43

FILED
CITY OF SEATTLE

SEA_00143224

Complaint to the City of Seattle- Claim for Damages & Loss Revenue

I am writing to you today to express my deep concern for my staff, my business, and myself due to the lack of support and safety the city has provided us since the beginning of June 2020.

My name is Peter Pak and I am the owner of the Korean Restaurant- Oma Bap. My complaint to the City of Seattle is simply that they have failed to provide a safe environment/neighborhood to my workers and customers over the past 3 months, resulting in a significant loss of business revenue and an unhealthy work environment. It has been hard enough to adapt and run a small business since COVID, and all we have asked for from the city is a safe place for our workers and customers to come to so that we can operate our business to the best of our ability. This has NOTHING to do with any of the specific groups who have come to the area and we truly support people's right to freedom of speech especially with the unfortunate events that have occurred this year. WE ARE JUST TRYING TO RUN A SMALL BUSINESS IN THESE TOUGH TIMES, and being put in this difficult environment has had a SIGNIFICANT impact on our business and health. This is WAY beyond just physical damage to our store....Yes, we have insurance BUT insurance doesn't cover for our business losses. Insurance doesn't pay my rent or loan payments. Insurance doesn't pay for psychological damages it has caused to myself and my staff.

When COVID hit our city in March, we immediately lost about 85% of our business and had to lay-off the majority of our staff....but we worked through this tough time with the few staff that we had and saw an **increase of 44% from March to April. From April to May we had a 32% increase in sales but starting in June and over the next 3 months we have seen a 20%, 26%, and a 20% decrease in sales** since CHOP occupied the area. As you can see, although we saw a significant loss in March we were able to make positive growth from March-May but have not been able to sustain any growth for the 3 months following.

The tough part of these past few months has been the "take-over" of the community....when I come into work each day, I have no idea what to expect....what streets will be blocked off? is my store vandalized? what new inappropriate graffiti is on our building (we appreciate all of the beautiful artwork)? Will there be a homeless person sleeping in front of my door? How many people will there be walking around "hi"? etc....COVID-19 is still around and the majority of these people living here don't wear masks and walk right into our store and sometimes just take things right off our front counter....

After the first shooting on early morning June 20th, I go to my store to decide if we should open for business that day and notice that more of the streets were blocked off than normal....I go outside to nicely speak to one of the CHOP people and they tell me that they are in fear of a possible retaliation that day.....so I immediately decided to close my store for the day (Saturdays have been consistently on of our busiest days of the week) to assure the safety of my staff and customers. As you know, there has been a shooting everyday since.....and there is fear for the safety of me and my staff. We also have now gotten phone calls that are very disturbing because they seem to be sarcastically threatening. I personally have not heard these calls, but my workers have told me that the calls have asked things such as "how safe is it to come down there?", "How safe do you feel?", and "Good luck, from communist China".....I think they are probably calling around to the local businesses to invoke fear and also to try and see what businesses may be complaining to our local government about the safety in the area.

It has already been very hard to stay open during these uneasy times and these disturbing phone calls have made it even harder for my employees to feel safe at work. I honestly feel selfish to

Oma Bap
1640 11th Ave
Seattle, WA 98122

FILED
CITY OF SEATTLE
20 SEP 28 AM 9:43
CITY CLERK

SEATTLE WA 980
23 SEP 2020 PM 6 L



of. of
Thurman

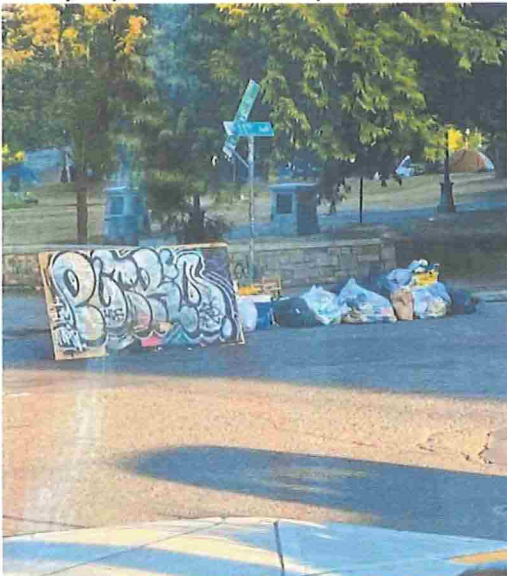
CITY CLERK'S OFFICE
PO BOX 94728
SEATTLE, WA 98124-4728

98124-472828



ask my workers to come to work each day moving forward because of this fear and lack of safety we have.....BUT with no support from our local leaders and government I am forced to try and stay open especially since we are still trying to get back on our feet from COVID.....over the past 3 months (March, April, May) we have progressively doing better in business....since the beginning of June we are heading back to our numbers we had in March and have lost a lot of business. Customers no longer want to order from us AND our vendors either won't deliver to us or have to park blocks away to bring us our goods.....I cannot even express how much stress, anxiety, and sleepless nights this has caused me....I have sacrificed all of my last 9+ years to my business and this community.

- We have had to completely close down for the day and close early several times
 - CLOSED 6/20
 - Closed early 7/3
 - Closed early 7/25
 - Closed early 9/3
- Every day the street directly in front of our store is filled with trash



- We have had to cancel several pop-up events due to the concern over safety from Mike's Shaved Ice, Seattle Fish Guys, Custard & Things, and Dochi Doughnuts. Pop-ups attract a larger marketing audience to our store and would have helped generate more revenue for us this summer but the vendors did not feel safe holding the events.
- Police did not respond to or even come to the area for the whole month of June
- First window was broken on Thursday 8/13/20 around 11pm with a note "Sorry was not endd but we will help pay for it"



- 8/17/20 the same man who broke our window came back during regular store hours and grabbed a rock and scratched our windows (we have video footage. He barely had any clothes on).....Our employees felt threatened that he might throw rocks at the windows again



- (3) more windows were broken by the same person who broke the first one on 8/27/20 around 10:45pm (have video footage of the incident). Police report was filed with the Police department and also East detectives at 1:07am 8/28/20. Have not heard a response back and the man is still freely roaming the neighborhood



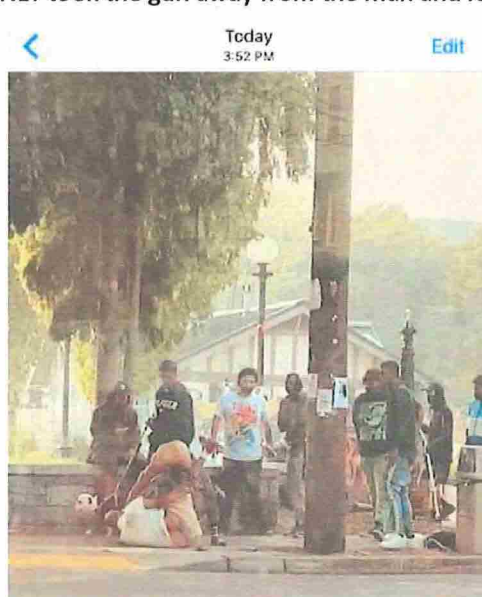
- Our outdoor tables have been flipped over on random occasions for no reason....and there have been several attempts to steal our outdoor chairs
- Random people from the park roam around the streets at all times of the day high on drugs, sometimes little to no clothes on, yell and solicit random people walking by, and walk up to our windows and scare our workers/employees. (these 2 guys were high on something around 10am just driving up and down the street on a handicap motorized cart)



- \$500 donation to BLM of King County on 6/12/20
- \$500 donation to BLM of King County on 6/23/20
- Free food & drinks handed out on 6/11, 6/12, 6/13, and on 6/19 (Juneteenth Day)
- \$500 donation made to Black Power Capitol Hill Art installation (GoFundMe we were the largest contributor)



- Over the last 3 months, random people from the park walk into our store (with no mask on) asking to use our bathroom...and several of them have taken items that we had on display on our front counter
- 8/31/20 Spoke to a police officer in person that happened to be right in front of my store expressing my concern over the man who broke our windows and why he has not been arrested, and the officer told me that they have been told NOT to go into the park (Cal Anderson Park)
- My store manager put in her resignation on 8/31/20 due to stress, anxiety, and safety of the neighborhood
- Wednesday 9/9/20 my staff and I witnessed a fight amongst the group across the street (around 4:40pm) resulting in a gun pulled out and pointed at the group. Cops came within 30min and ONLY took the gun away from the man and let him drive away



- Thursday 9/10/20 witnessed a man from the group across the street yell, solicit, and chase down a food delivery driver for no reason
- Thursday 9/10/20 my staff and I witnessed a pretty big fight (around 3:50pm). Cops were called by building manager.....no cops showed up.
- Emails were sent and forwarded to 6/23, 6/26, 8/28, 9/2, 9/10, and 9/11 to Michael Wells (City of Seattle small business advocate), Bobby Lee (Director of finance), Pedro Gomez (small business team director), Sabrina Bolieu (Liaison to the mayor's office), Joseph Elenbaas (Crime

prevention Coordinator for East Precinct).....ONLY response from Michael Wells and one time from Bobby Lee

- Since the first week of September, tents are set up DIRECTLY across the street from my store for "Antifa Outreach". Food, beverages, and clothing are handed out. How are they allowed to operate DAILY without a permit and not held to any regulations any other normal business would be help accounted for?
- The shooting death and suicide of Travis Berge last week on 9/16/20 has made our neighborhood even more less desirable and has impacted our business even more. The park is filled with repeat felons who walk the streets everyday doing what ever they like.

Arthur E. Campbell-Husted Co. *Insurance Adjusters*

P.O. Box 77046
Seattle, WA 98177-0046
Phone (206) 365-3290
E-mail: apoynter.aech@comcast.net

IN REPLY PLEASE REFER TO
OUR FILE NO. _____

October 5, 2020

Peter Pak
Oma Bap
1640 11th Ave
Seattle, WA 98122

City Claim No : C-99368
Incident : June 1, 2020 - Current
Location : 1640 11th Ave
Our File : D7/2767

Dear Peter Pak/Oma Bap:

The City of Seattle has received your claim filed with the City Clerk as referenced above. I am the adjuster assigned to handle this claim on behalf of the City of Seattle Risk Management Division's Claim Section.

Due to the complexity and enormity of the events related to the protests, the review and assessment of the incidents related to your claim could unfortunately take a considerable amount of time before a determination can be made on whether the City of Seattle is legally liable for your damages.

I acknowledge receipt of detailed explanation provided with your claim. I will begin my review. Additionally, if you have receipts, and/or estimates for repairs made or to be made please provide those as well. I would ask that if you can, please provide me with available witnesses and their contact information. Lastly, I would request that you take any steps necessary to mitigate your damage.

If you have any questions regarding this process, please contact me. My information is as follows:

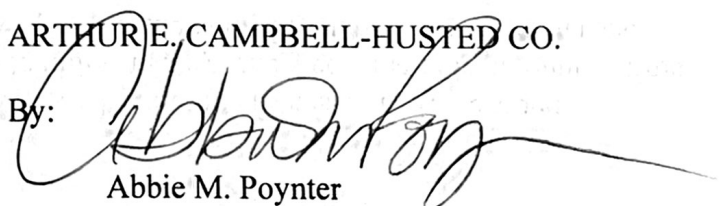
Phone : 206-365-3290
E-mail : apoynter.aech@comcast.net
Mailing address : P.O. Box 77046 Seattle, WA 98177-0046

Due to coronavirus, worksite modifications into a remote environment are in place. All communications are best performed via email. When I need further information, I will email a request to you. I would ask that you provide your claim documents in a scanned PDF format via email unless USPS mail is your only option. Thank you for your cooperation.

Yours truly,

ARTHUR E. CAMPBELL-HUSTED CO.

By:



Abbie M. Poynter

Exhibit B

Arthur E. Campbell-Husted Co.**Insurance Adjusters**

P.O. Box 77046
Seattle, WA 98177-0046
(206) 365-3290
apoynter.aech@comcast.net

December 14, 2020

Peter Pak
Oma Bap
1640 11th Ave
Seattle, WA 98122

RE: City Claim No. : C-99368
 Incident : June 1, 2020 – Current date
 Location : 1640 11th Ave. – Capitol Hill
 Our File : D7/2767

Dear Mr. Pak:

It was my sincere pleasure speaking with you. As we discussed the circumstances of your claim are unique. Typically, damage because of a third party's actions would not legally fall to the City; however, the City is aware of the difficulties that small businesses may have suffered, and this settlement is an attempt to provide some relief in a limited way.

Under direction of the City of Seattle Risk Management Division, I have been authorized to make a settlement offer on behalf of your claim. Enclosed is a Release of All Claims and Hold Harmless Agreement in the amount of \$ 500.00. While this may not be the full amount of your claimed damages it is the full amount of authority that I was given.

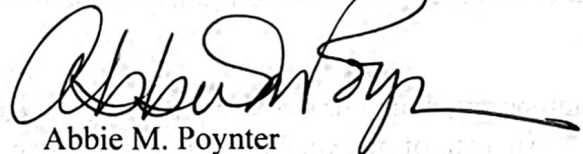
To conclude this settlement, please sign and date the document where indicated in the presence of two witnesses. Kindly mail the signed original document to me at P.O. Box 77046, Seattle, WA 98177-0046. Upon receipt, I will forward it to the City with the request that payment of your settlement be issued and mailed direct to you at the address on the Release.

Thank you for your courtesy.

Yours truly,

ARTHUR E. CAMPBELL-HUSTED CO.

By:


Abbie M. Poynter

**RELEASE OF ALL CLAIMS
AND HOLD HARMLESS AGREEMENT**

C-99368

FOR AND IN CONSIDERATION of the payment to me/us of the sum of Five Hundred and 00/100 Dollars (\$ 500.00).

I/we, being of lawful age, do hereby release, acquit, and forever discharge the City of Seattle, and its departments, employees, officials, officers and agents from any and all actions, causes of action, class actions, claims, demands, damages, costs, loss of services, expenses and compensation, on account of, or in any way growing out of, all known and unknown bodily injuries, property damage both business and personal, business interruption loss, violation of civil rights or otherwise resulting or to result from an incident occurring on or between the 1st day of June through present date, 2020 at or near 1640 11th Ave, Seattle, WA as set forth in my claim filed with the City of Seattle in the office of the City Clerk on the 28th day of September, 2020, and known as Claim No C-99368.

I/we declare and agree that this settlement and release is intended to include and apply to all injuries and damages both special and general resulting from said incident, and all past, present, and future effects of such injuries and damages both special and general and whether such injuries and damages, both special and general and the effects thereof are now known or unknown to me/us, and notwithstanding such injuries and damages both special and general are or may be permanent and progressive and recovery therefrom is or may be uncertain and indefinite; that in making this settlement and release I/we rely wholly upon my/our own judgment, belief, and knowledge of the nature, extent, and duration of said injuries and damages both special and general and I/we have not been influenced to any extent whatsoever by any representations or statements regarding said injuries, damages both special and general or regarding any other matters, made by the persons, firms, or corporations who are hereby being released, or by any person or persons representing him or them.

It is further understood and agreed that this settlement is the compromise of a doubtful and disputed claim and that payment is not to be construed as an admission of liability on the part of the City of Seattle, and its departments, employees, officials, officers, and agents by whom liability is expressly denied.

I/we agree to indemnify and hold harmless the parties hereby released from all subrogation or indemnity claims, claims for any liens of whatsoever kind and nature arising by reason of known and unknown injuries and/or damages both special and general sustained in the incident referred to above.

I/WE STATE THAT I/WE HAVE CAREFULLY READ THIS RELEASE AND HOLD HARMLESS AGREEMENT AND UNDERSTAND THE CONTENTS THEREOF, AND I/WE SIGN THE SAME AS MY/OUR OWN FREE ACT.

If I seek recovery for any personal injury, by initialing here: _____, I/we certify that I/we am/are not over 65 and am/are aware of no medical care related to this incident provided by Medicare, Medicaid or through a Medicare or Medicaid program.

Signed this _____ day of December, 2020.

Name: _____
Peter Pak for Oma Bap

Address 1640 11th Ave, Seattle, WA 98122

As witnessed by:

Name: _____

Name: _____

Address: _____

Address: _____